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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1288th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 August 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. SHERIFIS

later: Mr. DIACONU

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Consideration of the twelfth periodic report of Jordan (CERD/C/318/Add.1; HRI/CORE/1/Add.18/Rev.1)

1. At the invitation of the Chairman, Mr. Haddad, Mr. Hazzan and Ms. Mazahreh (Jordan) took places at the Committee table.

2. The CHAIRMAN welcomed the delegation of Jordan and invited the head of the delegation to introduce the twelfth periodic report of Jordan (CERD/C/318/Add.1), containing the ninth, tenth, eleventh and twelfth periodic reports.

3. Mr. HADDAD (Jordan) thanked the Committee for the dialogue it was conducting with Jordan and, in general, for everything the Committee was doing to combat racial discrimination.

4. Jordan was among the States that took their international human rights commitments most seriously. The Government worked ceaselessly to protect human rights, translating all the relevant texts into Arabic and incorporating them systematically into domestic legislation. The Jordanian Government and people were proud of the almost complete absence of racial discrimination in the country.

5. He attributed the values and principles of Jordanian society to its dual Muslim and Christian heritage and related several anecdotes illustrating the basic notions of tolerance and equality. Articles 6 to 23 of the Constitution, which provided for the protection of human rights and the rejection of all racial discrimination, reproduced almost word for word articles 2 to 7 of the Convention. In addition, the protection of human rights seemed to be a common thread running throughout Jordanian legislation, beginning with the Constitution. Before any bill was finally adopted, it was submitted to a council that checked whether it complied with the principle of non-discrimination. Whenever necessary, legislation also provided for appropriate penalties.

6. An important piece of legislation, the bill to establish a Centre for Freedom, Democracy and Human Rights, was before the Senate and was to be given Royal assent in the near future.

7. Jordan's population was a mixture of races and religions, but Jordan was a single nation where no one was identified as Christian, Kurd or Arab; all were simply Jordanian citizens. That applied also to the civil service and the army. For example, the Jordanian passport gave no indication of religion or origin and discrimination was prohibited in recruitment for government service. Any person who felt unjustly treated in that respect could apply to the High Court of Justice, which could annul a decision taken by a government office. He conceded that that did not prevent personal grievances arising,

but the laws were there to protect the individual against any abuse of authority. In that context, racial discrimination was, if not non-existent, at least rare.

8. He gave the Committee some information concerning the Nationality Act and reported on a recent change in the naturalization law, allowing a woman to apply for a passport without her husband's permission. He then gave an outline of Jordan's report, elaborating somewhat on the question of nomads or, as he described them, Jordanian citizens living in the arid desert areas. With the establishment of the Kingdom of Jordan and the definition of its borders, they had become Jordanian citizens; others, however, sometimes belonging to the same family, now lived in Iraq or Saudi Arabia. Their flocks having declined drastically, many such groups were poor, but had access to all the public services provided by the Government. In addition, many of them had joined the army, thereby gaining access to education. Similarly, they were entitled to privileged access to university since the selection criteria (notably the requirement of a certain average grade) did not apply to them. He pointed out that some nomads, even in a country as poor as Jordan, had been able to amass considerable wealth.

9. Mr. BANTON (Rapporteur for Jordan) said that Jordan stated in its report that there was no racial discrimination whatever in the country, since all citizens were equal in regard to their rights and obligations. It was not really possible to make such a statement with any certainty. While the legal provisions in force in Jordan certainly appeared to comply with the provisions of the Convention, the Convention also covered racial discrimination between individuals. In order to support its assertion, Jordan could, for example, have conducted experiments, as provided in the International Labour Organization (ILO) programme. The absence of court proceedings alleging racial discrimination would be genuinely convincing only if it was certain that the potential victims were aware of the remedies available to them and had the financial means to make use of them.

10. Referring to paragraph 38 of the report, he said that article 150 of the Penal Code prohibited, among other things, incitement to racial hatred "among the various communities and races that constitute the nation". Article 1 of the Convention did not apply only to the groups that constituted a nation, while article 5 was intended to guarantee the rights of "everyone", i.e. residents as well as citizens. Were those other groups covered by the National Charter or some other constitutional or legislative provision?

11. Article 150 of the Penal Code implemented most of article 4 of the Convention. But he asked the delegation to state whether acts by a person or an organization intended to incite racial hatred against a group outside the country would be illegal. In Jordan, because of international tensions, Jews were more likely than any other ethnic group to be the object of incitement to racial hatred. Was the Government aware of the circulation in Jordan of any publications such as the "Protocols of the Elders of Zion" or of any statements over the radio which might be construed as constituting racial incitement against Jews?

12. Article 151 of the Penal Code implemented most of article 4 (b) of the Convention but contained no prohibition of the kind required by article 4 (c). Was there a gap in the law or in that description of the law?

13. The camps for Palestinians constituted a form of de facto segregation based on ethnic or national origin but that situation was not the responsibility of the Jordanian Government. Note should be taken of the Committee's General Recommendation XIX.

14. Article 5 (a) of the Convention guaranteed the right to equal treatment before the tribunals and all other organs administering justice. He wondered whether that right was recognized in Jordan. What was the situation with regard to the right to security of persons as provided for by article 5 (b)? With regard to economic, social and cultural rights, the preference granted to Arab workers under article 12 of the Labour Act appeared to be in conflict with the Convention. However, in 1990, the Jordanian delegation had stated that article 12 derived from an agreement concluded between members of the League of Arab States and that it was therefore applicable to all citizens of those States irrespective of their ethnic or national origin. If so, then there was no conflict. Would the same also apply to residents of one of those Arab States?

15. With regard to article 6 of the Convention, the report gave no information on the provision of effective remedies, and he asked the delegation to indicate what remedies would be available to someone who believed, with justification, that they had been denied a position because they were Chechen or Armenian but could not afford to hire a lawyer. In addition, he recalled that the eighth report of Jordan had included eight paragraphs on article 7 of the Convention. Why was there no information on it in the report under consideration? Was it because there was nothing new to report on educational measures?

16. Had Jordan considered making a declaration under article 14 in order to allow the Committee to receive and consider communications from individuals within its jurisdiction?

17. Lastly, would Jordan take the necessary steps to accept the amendments to the Convention adopted at the fourteenth Meeting of States Parties in 1992?

18. Mr. SHERIFIS drew attention to the statement in paragraph 27 of the report to the effect that Jordan was the only Arab State to have treated the Palestinian refugees in a largely positive manner. Jordan's generous attitude in that regard was well known, but he wondered whether the statement took account of the efforts made by Egypt, Kuwait or other Arab States. He nevertheless welcomed the fact that Jordan was making efforts to offer the Palestinian refugees the best conditions and standards of living possible and that it gave them access to all the services and programmes that the State provided for its own citizens.

19. The report stated that 81 per cent of the Palestinian refugees in Jordan lived outside the 10 camps supervised by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and that that clearly showed that the Palestinian refugees, as Jordanian citizens, enjoyed complete

freedom of movement throughout the Kingdom. Did the other Palestinian refugees have the right to leave the camps and live elsewhere? If so, there was no reason to speak of segregation with regard to the Palestinian refugees.

20. With regard to electoral law, he noted that Christians occupied nine out of a total of 80 seats in the Jordanian House of Representatives, i.e. 11.25 per cent of the total number of members, even though they constituted less than 4 per cent of the population; the Circassians and Chechens held three seats, i.e. 3.75 per cent of the total number of members, even though they constituted only about 1.3 per cent of the population of Jordan. Was the large number of seats held by minority communities the result of a quota system or was it a temporary situation that would change at the next elections? What was the situation in the civil service and the judiciary? Were positions reserved for members of minorities there, too?

21. Mr. VALENCIA RODRÍGUEZ welcomed the fact that, under article 6, paragraph 1, of the Constitution, "Jordanians are equal before the law and there shall be no discrimination between them in regard to their rights and obligations on grounds of race, language or religion". However, the Committee was also interested in the way in which such guarantees were implemented.

22. Paragraph 9 (b) of the report stated that any non-Jews who had had Palestinian nationality prior to 15 May 1957 and had been normally resident in Jordan during the period from 20 December 1949 to 16 February 1954 were deemed to be Jordanian nationals. What did the Nationality Act say about Jews? What was the legal status of persons - whether Jews or non-Jews - resident in Jordan after 16 February 1954? Under article 8 of the Nationality Act, a Jordanian woman who married a non-Jordanian and acquired her husband's nationality could retain her Jordanian nationality unless she renounced it in accordance with the provisions of the Nationality Act. She could recover her Jordanian nationality by submitting an application to the Ministry of Internal Affairs if her marital status was terminated for any reason. What would her legal status be if the Ministry denied her application?

23. According to paragraph 33 of the report, the Christian, Circassian and Chechen communities held a large number of seats in the House of Representatives. What was the situation with regard to the other minority groups within the Jordanian population?

24. He welcomed the fact that Jordan had ratified 17 international conventions on the right to work, and requested the delegation to provide fuller information on their implementation. With regard to the granting of precedence to Jordanians over other Arabs and to Arabs over foreigners in regard to employment and work permits, he did not believe that was necessarily incompatible with the Convention. Such precedence was granted in other countries under regional integration agreements.

25. With regard to the nomads, he welcomed Jordan's efforts to increase literacy. He asked the delegation to indicate what additional measures the Jordanian authorities intended to take in the socio-economic field.

26. Mr. DIACONU said that the Committee should take note of the generosity Jordan had always shown towards the Palestinian population, taking in several

waves of refugees and giving them the opportunity to live in Jordan as full citizens. As the report recalled, Jordanians of Palestinian origin would have the right to choose between Jordanian or Palestinian nationality. He asked the delegation to indicate what measures were envisaged to that end. Did Palestinian citizens take part in political life? Were they, for example, members of the political parties mentioned in paragraph 37 of the report?

27. Lastly, he welcomed the fact that, under article 21 of the Political Parties Act No. 32 of 1992, all political parties were required to "refrain from discriminating between citizens".

28. Mr. de GOUTTES thanked the delegation for its introduction and Mr. Banton for his very detailed analysis. He returned to paragraph 7 of the report, which stated that, in spite of the great ethnic and religious diversity in Jordan, there was no discrimination between individuals. However, the head of the delegation had recognized that acts of discrimination could take place in the private domain and it was somewhat surprising that no complaint had ever been lodged in that regard. Were citizens well informed of their rights and the remedies available to them?

29. Article 150 of the Penal Code did not appear to cover all the acts mentioned in article 4 of the Convention, in particular acts of violence, defamation and racial insults. With regard to article 151, he would like the delegation to inform the Committee whether any associations subscribing to discriminatory or racist ideas had ever been banned or prosecuted.

30. Paragraph 59 of the report stated that Arab and foreign immigrant workers must obtain approval and a work permit before they could be employed and that Jordanian workers took precedence over immigrant workers in regard to appointment. The Committee had already expressed concern in that regard when considering the previous report of Jordan (CERD/C/183/Add.1) and he would like to know how the Jordanian Government reconciled the precedence given to Arab workers over foreign workers in the area of employment with article 5, paragraph (e) (i), of the Convention. Did it not constitute discrimination on the basis of national origin and therefore a violation of the provisions of ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation?

31. Lastly, he wondered whether any steps had been taken to disseminate the Convention among the general public and law enforcement officers and whether the Government intended to publish the report under consideration and the Committee's eventual conclusions.

32. Mr. WOLFRUM endorsed his colleague's questions. In addition, he asked for clarification with regard to article 25 (j) of the Provisional Electoral Act No. 24 of 1960, which referred to the members of the northern nomadic tribes (paragraph 9 (f) of the report). He, too, paid tribute to Jordan's very good treatment of the Palestinian refugees in spite of its limited economic resources, and welcomed the system governing the composition of the Jordanian House of Representatives (paragraph 33 of the report), which could serve as a model for many other countries. However, he would like to know, for example, to what extent the Palestinians living in Jordan were able to preserve their identity.

33. He asked whether the restriction in regard to employment, mentioned in the previous report, had been maintained with respect to foreign citizens who had acquired Jordanian nationality through naturalization (paragraph 14 of the report). He also drew the Jordanian delegation's attention to the fact that articles 150 and 151 of the Penal Code did not fully reflect the provisions of article 4 of the Convention. Lastly, the report under consideration contained new details which it would have been more appropriate to include in the core document (HRI/CORE/1/Add.18/Rev.1) and the Committee would like the Jordanian authorities to try to improve the way they distributed information among the various documents submitted under human rights instruments.

34. Mr. SHAHI endorsed questions raised by his colleagues and laid particular stress on the continuing divergence between articles 150 and 151 of the Penal Code and the provisions of article 4 of the Convention, most notably those of paragraph (c). In addition, he wondered whether action had been taken to implement article 6 of the Convention and whether any persons who considered themselves victims of discrimination had lodged complaints with the domestic courts and perhaps been awarded compensation for damages.

35. The CHAIRMAN invited Mr. Haddad to answer the questions put by the members of the Committee.

36. Mr. Sherifis took the Chair.

37. Mr. HADDAD (Jordan) began by explaining that the reason the Jordanian authorities had not made a declaration under article 14 of the Convention was that there were so few cases of racial discrimination that such a mechanism was not justified. On the other hand, he was pleased to report that Jordan had recently accepted the amendment to article 8, paragraph 6 of the Convention.

38. He confessed that he did not understand the Committee's reservations with regard to articles 150 and 151 of the Penal Code which, in his opinion, adequately covered all the acts referred to in article 4 of the Convention, whoever committed them. The penalties could even be increased if the guilty party belonged to a racist organization, a provision that amply attested to the authority's desire to preserve national unity and social harmony. Those articles also covered incitement to religious fanaticism or bigotry against Jews. There were no Jews resident in Jordan but, since peace had been restored, Jews could enter the country as tourists or to work.

39. Equality in regard to employment and working conditions was fully guaranteed. The reason so few Jews worked in Jordan was that levels of pay were much lower there than in Israel. The Jordanian authorities allowed into the country whatever labour was required, from foreign household staff - whose ethnic and religious characteristics were fully respected - to qualified professionals from, for example, Germany or Canada, to help implement economic reforms.

40. Jordan exported highly qualified labour, particularly doctors, to many countries around the world. By contrast, it offered mainly low-paid jobs in

agriculture, which attracted hardly anyone other than some 250,000 Egyptian workers and 50,000 Syrian workers. It was that situation, and not the bilateral agreements between Jordan and the other Arab countries of the region, that explained the national origin of the foreign workers living in Jordan. The same situation in reverse explained why Jordanian labour was attracted by Israeli wages, which were considerably higher than local wages.

41. With regard to the racial composition of the Jordanian population, history showed that there was no real indigenous or non-indigenous population. By the time the Hashemite Kingdom had been established, Chechen and Circassian families fleeing from oppression in their countries of origin had already settled in Jordanian territory, along with a number of Kurdish families. The Christians of Jordan were Ghassanid Arabs from the Gulf region. The members of all those communities had become Jordanian and did not suffer any discrimination on grounds of their origin, in relation to employment either in the civil service or the army, where they had access to the most senior positions. In answer to the question on the distribution of parliamentary seats, he explained briefly that, when the first Legislative Assembly had been established, special steps had been taken to ensure the representation of the Christian, Chechen and Circassian communities, who had been granted a quota of 20, 40 and then 80 seats in Parliament. However, the Electoral Act regulating the quota system was to be repealed. As it stood, any candidate could be elected in any constituency by the members of the various communities regardless of their ethnic origin, and Palestinians running in urban constituencies frequently defeated candidates of Jordanian extraction.

42. With regard to the composition of the Council of the Upper Chamber, Council members were selected by the King, who assigned them various tasks, including monitoring legislative activity. The King selected the councillors from the various communities as he saw fit. In addition, the prime minister was appointed by the King and the post was currently filled by a Jordanian Palestinian. In accordance with tradition, the prime minister did not select his advisers solely from the Jordanian-Palestinian community, but tried to surround himself with representatives of the various communities and regions of the country, depending on circumstances.

43. Lastly, he said it was not really possible to say that various races as such existed in Jordan. As the Constitution stated, Jordan was inhabited by a community that formed part of the Arab nation, which shared the same religion and the same language and had common aspirations. Moreover, it was not unusual for members of a single Jordanian family to have settled in different parts of the region.

44. The CHAIRMAN thanked the delegation of Jordan for the very full answers it had given to the Committee members' questions. He noted that it would supply further answers at the following meeting.

45. The delegation of Jordan withdrew.

46. Mr. Diaconu took the Chair.

Draft concluding observations of the Committee on the fourteenth periodic report of Cyprus (CERD/C/53/MISC.19) (document distributed at the meeting in English only)

Paragraphs 1 to 4

47. Paragraphs 1 to 4 were adopted.

Paragraph 5

48. The CHAIRMAN, speaking in his personal capacity, said that paragraph 5 should be deleted since it had to do with equality between men and women and not racial discrimination.

49. Mr. NOBEL said that what it dealt with was the mother's nationality, which, in the present case, had ethnic implications.

50. The CHAIRMAN, referring to article 1, paragraph 3, of the Convention, said that the Committee could not make pronouncements on the legal provisions of States parties concerning naturalization except in cases where such provisions were an expression of national or ethnic discrimination.

51. Mr. RECHETOV said that in the case in question there was a connection, albeit an indirect one, between discrimination against women with regard to the acquisition of nationality, and national origin.

52. Mr. SHAHI suggested that the word "indiscriminately" should be replaced by "without discrimination".

53. Mr. BANTON suggested that the word "now" should be deleted.

54. Paragraph 5, as amended by Mr. Shahi and Mr. Banton, was adopted.

Paragraphs 6 to 10

55. Paragraphs 6 to 10 were adopted.

Paragraph 11

56. The CHAIRMAN suggested that the words "it still concerned" in the first sentence should be replaced by "it is still concerned".

57. Mr. van BOVEN proposed that the words "and the public at large" should be added after the word "lawyers" at the end of the paragraph.

58. Paragraph 11, as amended, was adopted.

59. The CHAIRMAN suggested that the consideration of the draft concluding observations on the fourteenth periodic report of Cyprus should be resumed at the next meeting.

60. It was so decided.

The meeting rose at 6 p.m.